

Title 7: AGRICULTURE AND ANIMALS
Chapter 4: AGRICULTURAL FAIRS AND PULLING EVENTS

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 4: AGRICULTURAL FAIRS AND PULLING EVENTS

§81. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2005, c. 563, §3 (NEW) .]

1. Agricultural fair. "Agricultural fair" or "fair" means an exhibition that is designed to promote education and encourage improvement in agriculture and that includes, but is not limited to, the following:

A. The awarding of premiums for livestock competitions; [2005, c. 563, §3 (NEW) .]

B. The display of and awarding of premiums for horticultural products; and [2005, c. 563, §3 (NEW) .]

C. The display and presentation of agricultural activities and projects undertaken by youth organizations. [2005, c. 563, §3 (NEW) .]

[2005, c. 563, §3 (NEW) .]

2. Agricultural society. "Agricultural society" means a nonprofit organization or association incorporated in the State to promote education and encourage improvement in agriculture.

[2005, c. 563, §3 (NEW) .]

3. Animal. "Animal" means an animal entered in an event.

[2005, c. 563, §3 (NEW) .]

4. Event. "Event" means a pulling competition or livestock exhibition.

[2005, c. 563, §3 (NEW) .]

5. Fair Fund. "Fair Fund" means the fund established in section 85.

[2005, c. 563, §3 (NEW) .]

6. Fair licensee. "Fair licensee" or "licensee" means a person, agricultural society or other entity licensed to conduct an agricultural fair in accordance with section 83.

[2005, c. 563, §3 (NEW) .]

7. Licensed veterinarian. "Licensed veterinarian" means a person licensed as a veterinarian by the State who is operating under the direction or authority of the department.

[2005, c. 563, §3 (NEW) .]

8. Livestock. "Livestock" means cattle, equines, goats, members of the genus Lama, rabbits, sheep and swine.

[2005, c. 563, §3 (NEW) .]

9. Poultry. "Poultry" means domesticated fowl and domesticated waterfowl.

[2005, c. 563, §3 (NEW) .]

10. Premium. "Premium" means a ribbon, trophy or monetary amount or a service or object with monetary value awarded as a prize in a competition.

[2005, c. 563, §3 (NEW) .]

11. Prohibited substance. "Prohibited substance" means:

A. A stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal; [2005, c. 563, §3 (NEW) .]

B. Any substance that the commissioner through rulemaking in accordance with section 96, subsection 6 determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal; [2005, c. 563, §3 (NEW) .]

C. A drug, regardless of how harmless or innocuous, that interferes with the detection of any other prohibited substance; or [2005, c. 563, §3 (NEW) .]

D. A metabolite or derivative of a prohibited substance. [2005, c. 563, §3 (NEW) .]

[2005, c. 563, §3 (NEW) .]

12. Stipend. "Stipend" means an amount distributed from the Stipend Fund or the Fair Fund to a qualifying fair licensee.

[2005, c. 563, §3 (NEW) .]

13. Stipend Fund. "Stipend Fund" means the fund receiving money in accordance with Title 8, sections 286 and 287 to provide aid and encouragement to fair licensees.

[2005, c. 563, §3 (NEW) .]

14. Trainer. "Trainer" means a person who has the responsibility for the care, training, custody or performance of an animal, including, but not limited to, any person who signs an entry blank for an event.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW) .

§82. COMMISSIONER'S DUTIES AND POWERS

1. Licensing and apportionment. The commissioner shall issue fair licenses in accordance with section 83. The commissioner shall apportion annually the stipend due from the Stipend Fund and the Fair Fund to qualified fair licensees.

[2005, c. 563, §3 (NEW) .]

2. Administration of Stipend Fund and Fair Fund. In administering the provisions of this chapter pertaining to the Stipend Fund and the Fair Fund, the commissioner shall:

A. Issue blanks for a licensee or the appropriate officer of a licensee to submit information necessary for the commissioner to obtain full knowledge of the licensee's work for each year; [2005, c. 563, §3 (NEW) .]

B. Certify to the Governor the amount of stipend due a licensee; and [2005, c. 563, §3 (NEW) .]

C. Make distributions from the Stipend Fund and the Fair Fund in accordance with this chapter. [2005, c. 563, §3 (NEW) .]

[2005, c. 563, §3 (NEW) .]

3. Authority to summons. The commissioner may summon and examine on oath an officer or director of any entity holding a fair license or any person whose testimony the commissioner considers necessary in the proper discharge of the commissioner's duties under this chapter. The commissioner may require witnesses to offer for examination books or records in their custody or control that the commissioner considers necessary for the performance of the commissioner's duties.

[2005, c. 563, §3 (NEW) .]

4. Authorization for payment. The commissioner may authorize payment of a stipend only to a fair licensee that has adhered to the requirements of this chapter. A fair licensee is not entitled to a stipend unless the licensee completes and returns blanks issued in accordance with subsection 2. Neglect or failure on the part of a licensee to adhere to the requirements of this chapter is sufficient cause for withholding that licensee's stipend.

[2005, c. 563, §3 (NEW) .]

5. Rulemaking. The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distribution of slot machine revenue in accordance with Title 8, section 1036, subsection 2 to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 358, §1 (AMD) .]

6. Report on revenues from the operation of slot machines. The commissioner shall coordinate with the executive director of the State Harness Racing Commission to submit a report regarding the distribution of slot machine revenues as required by Title 8, section 1037.

[2011, c. 358, §2 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW). 2011, c. 358, §§1, 2 (AMD).

§83. LICENSING OF AGRICULTURAL FAIRS

A person or entity is not eligible to receive a stipend unless that person or entity has been issued a license by the department to hold an agricultural fair. [2005, c. 563, §3 (NEW) .]

1. Application; fee. A person or entity applying for a license under this section must submit a completed application form and a \$10 license fee to the commissioner no later than March 31st in the calendar year preceding the first year of the license. The application for the license must contain the

information prescribed by the commissioner and must be signed and sworn to by the applicant. When the applicant is an agricultural society, an executive officer of the society must sign and swear to the information on the application.

[2005, c. 563, §3 (NEW) .]

2. Issuance of license. If satisfied that an applicant will comply or, if an applicant has previously held a license, that the applicant has complied and will continue to comply with the requirements of this chapter and rules adopted pursuant to this chapter, the commissioner may issue a license to the applicant for an agricultural fair. A license is issued for 3 consecutive years and only for the dates assigned by the commissioner in accordance with section 84.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§84. FAIR DATES

1. Assigned fair dates. The commissioner shall set the dates for which an agricultural fair license is effective in accordance with rules adopted pursuant to section 82, subsection 5. No later than May 15th of the calendar year preceding the first year of each 3-year license period, the commissioner shall announce the assignment of fair dates and issuance of licenses.

[2005, c. 563, §3 (NEW) .]

2. Requests for changes in dates. A licensee may petition the commissioner for a change in the fair dates assigned under this section. The petition must be received a minimum of 90 days prior to the licensee's first assigned fair date for that year. Upon receipt of the petition, the commissioner shall reconsider the dates assigned, following the same procedure by which the dates were originally assigned, and shall make a determination within 30 calendar days.

[2005, c. 563, §3 (NEW) .]

3. Cancellation or reduction in fair days. A licensee shall notify the commissioner of a cancellation or any proposed decrease in the number of days of a fair. This notification must be made a minimum of 60 days prior to the first fair day assigned to the licensee for a given year.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§85. FAIR FUND

The Treasurer of State shall establish the Fair Fund and shall annually credit a sum of money equal to 5% of the total amount designated as state share in accordance with Title 8, section 286 to the Fair Fund. The commissioner shall make distributions from the Fair Fund only to licensees eligible for a stipend under section 86, subsections 5 and 6. Distributions are prorated according to the amount of premiums and gratuities actually paid by those licensees in full and in cash or valuable equivalent. Restrictions on premiums and gratuities used to determine apportionment of a stipend under section 86, subsection 5 apply to distribution from the Fair Fund. [2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§86. STIPEND FUND

1. Annual distribution. The commissioner shall annually distribute all money contributed to the Stipend Fund under Title 8, sections 286 and 287 to qualified licensees in accordance with this section.

[2005, c. 563, §3 (NEW) .]

2. Distribution of funds to fair licensees that conduct pari-mutuel racing. Forty-four percent of the amounts contributed to the Stipend Fund under Title 8, sections 286 and 287 must be divided into equal amounts for reimbursement to each licensee that:

A. Conducts pari-mutuel racing in conjunction with its annual fair; [2005, c. 563, §3 (NEW) .]

B. Has improved its racing facilities; and [2005, c. 563, §3 (NEW) .]

C. Has met the standards for facility improvements set by the commissioner for that licensee. [2005, c. 563, §3 (NEW) .]

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

[2005, c. 563, §3 (NEW) .]

3. Distribution of funds to fair licensees who do not conduct pari-mutuel racing. Eight percent of the amount contributed to the Stipend Fund under Title 8, sections 286 and 287 for a calendar year must be divided into amounts in proportion to the sums expended for premiums by the licensee in that year for reimbursement to each licensee that:

A. Does not conduct pari-mutuel racing; and [2005, c. 563, §3 (NEW) .]

B. Has met the standards for facility improvements set by the commissioner for that licensee. [2005, c. 563, §3 (NEW) .]

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

[2005, c. 563, §3 (NEW) .]

4. Expenditures for administration and inspection services. The commissioner may expend annually up to 13% of the Stipend Fund for administrative and inspection services provided under this chapter.

[2005, c. 563, §3 (NEW) .]

5. Distribution to all eligible licensees. The amount remaining in the Stipend Fund after distributions in accordance with subsections 2, 3 and 4 must be divided among fair licensees meeting the eligibility criteria in subsection 6, prorated according to the amount of premiums and gratuities actually paid by those licensees in full and in cash or valuable equivalent.

In determining distribution under this subsection, no allowance is made on premiums offered and paid by a licensee at any competition held other than during the period at which its annual fair is held. Allowance may not be made or consideration given for lump sums, payments or premiums previously arranged and agreed upon for the presentation and display of any animals or products without regard to competition.

Premiums and gratuities used to determine apportionment under this subsection are limited to those paid for:

A. Livestock and poultry; [2005, c. 563, §3 (NEW) .]

B. Vegetables, grains, fruits and flowers; [2005, c. 563, §3 (NEW) .]

C. Products derived from livestock; [2005, c. 563, §3 (NEW) .]

D. Home-canned, home-cooked and home-baked goods; [2005, c. 563, §3 (NEW).]

E. Grange and farm exhibits; [2005, c. 563, §3 (NEW).]

F. Boys' and girls' club exhibits; [2005, c. 563, §3 (NEW).]

G. Mechanical arts exhibits; [2005, c. 563, §3 (NEW).]

H. Domestic and fancy articles produced in the home; [2005, c. 563, §3 (NEW).]

I. Pulling contests for equines and oxen; and [2005, c. 563, §3 (NEW).]

J. Pulling contests for farm tractors and pickup trucks. [2005, c. 563, §3 (NEW).]

[2005, c. 563, §3 (NEW) .]

6. Eligibility for stipend. A licensee is not entitled to a stipend under this chapter unless:

A. The licensee holds a license that is valid for the year for which the stipend is calculated; [2005, c. 563, §3 (NEW).]

B. Exhibits of vegetables, fruits, grains or dairy products are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner; [2005, c. 2, §5 (COR).]

C. The health status of domestic animals shown or exhibited at the fair satisfies the health requirements established by the commissioner in accordance with section 1811 and rules adopted pursuant to section 1752; [2005, c. 563, §3 (NEW).]

D. The fair is conducted in accordance with performance standards established in rules adopted pursuant to section 82, subsection 5; and [2005, c. 563, §3 (NEW).]

E. The minimum premiums established in subsection 7 are paid. [2005, c. 563, §3 (NEW).]

[2005, c. 2, §5 (COR) .]

7. Minimum premiums required. To be eligible to receive a stipend, a licensee must:

A. Upon receiving an initial license, spend a minimum of \$750 per year on premiums for 3 years for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests; and [2005, c. 563, §3 (NEW).]

B. Upon fulfilling the requirement under paragraph A, continue to spend a minimum of \$1,200 on premiums yearly for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests. [2005, c. 563, §3 (NEW).]

[2005, c. 563, §3 (NEW) .]

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of \$10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund or the Agricultural Fair Support Fund in accordance with section 91.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

RR 2005, c. 2, §5 (COR). 2005, c. 563, §3 (NEW).

§87. LICENSEES INELIGIBLE FOR STIPEND

1. Distribution of profits as primary purpose. A licensee is not eligible for a stipend if the licensee is an entity with stockholders or members and the commissioner determines that the primary purpose of the licensed entity is the distribution of profits to its members or stockholders.

[2005, c. 563, §3 (NEW) .]

2. Premiums on unregistered males prohibited. A stipend may not be paid to any licensee offering or paying premiums on unneutered male animals over 6 months of age that are not recorded in the books of record for their respective breeds as recognized by the commissioner. The commissioner may make verification of breed records a part of the sworn certificate required under section 88, subsection 1, paragraph A.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§88. FILING AND CERTIFICATION; INVESTIGATION OF COMPLAINTS

1. Filing requirement. A licensee may not receive payment of a stipend or state aid by special appropriation until:

A. The licensee files a sworn certificate with the commissioner stating the amount of money raised by the licensee in connection with the fair and the amount actually awarded and paid in premiums; and
[2005, c. 563, §3 (NEW) .]

B. The commissioner submits a certificate to the executive director of the State Harness Racing Commission stating that the commissioner has examined the claim of the licensee and determined that the licensee has complied with sections 86 and 87 and has awarded and paid as premiums and gratuities a sum equal to or greater than the stipend received by the licensee. [2005, c. 563, §3 (NEW) .]

[2005, c. 563, §3 (NEW) .]

2. Investigation of complaints. Upon receiving a written and signed complaint alleging a violation of this chapter relating to the payment of state aid in any form to a licensee, the commissioner may investigate the alleged violation and employ such agents as necessary to aid in the investigation. Expenses incurred for an investigation under this subsection are paid out of the general appropriation for state aid to licensees. When an investigation determines that a licensee has violated this chapter, the expense of the investigation is paid from the amount that would otherwise have been paid to that licensee. If a licensee against which the complaint is made receives its aid by special enactment, then the expense of the investigation is paid from the appropriation for that licensee.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§89. LICENSEES HOLDING PARI-MUTUEL RACING MEETS

In addition to other requirements provided in this chapter, a licensee that holds pari-mutuel racing meets must put on an agricultural fair during one racing meet each year to be eligible to receive a stipend. Exhibits must be kept in an attractive display for a minimum of 3 consecutive days during the meet. The total premium

payments for these exhibits must be an amount equal to or greater than the premiums paid for pulling contests at the fair and race meet, and not less than 25% of the premiums paid for harness horse races conducted during the annual fair. [2005, c. 563, §3 (NEW).]

The conducting of pari-mutuel betting by an entity licensed by the State Harness Racing Commission in accordance with Title 8, chapter 11 is not cause for withholding that entity's stipend. [2005, c. 563, §3 (NEW).]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§90. ANNUAL REPORTS

1. Annual reports. No later than December 31st of the year for which a stipend is requested, a licensee claiming a stipend shall file with the commissioner a statement setting forth:

- A. The financial condition and transactions of the licensee; [2005, c. 563, §3 (NEW).]
- B. The amounts paid in premiums in each of the classes or displays used to determine apportionment under section 85, subsection 5; and [2005, c. 563, §3 (NEW).]
- C. Additional information requested by the commissioner relative to the character of displays and the conduct of exhibitions. [2005, c. 563, §3 (NEW).]

The licensee shall submit the required information on blanks furnished by the commissioner. Upon receipt and after examination of these statements, and if the commissioner finds the submission to be accurate, complete and in accordance with sections 85 and 86, the commissioner shall issue the certificate required under section 88.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§91. AGRICULTURAL FAIR SUPPORT FUND

1. Fund created. The Treasurer of State shall establish an account to be known as "the Agricultural Fair Support Fund" and shall credit to it all money received under Title 8, section 1036, subsection 2, paragraph D. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with Title 8, section 267-A.

[2007, c. 539, Pt. G, §1 (AMD); 2007, c. 539, Pt. G, §15 (AFF) .]

2. Disbursement. No later than January 31st of each year, all funds held as of the end of the previous calendar year in the Agricultural Fair Support Fund must be distributed by the Treasurer of State as follows:

- A. Thirty-four percent of these funds must be distributed to all commercial tracks as defined in Title 8, section 275-A and to all fair licensees that during the previous year were licensed to and did accept pari-mutuel wagers on harness horse races. These funds must be distributed in the manner prescribed in Title 8, section 298; and [2005, c. 563, §3 (NEW).]
- B. Sixty-six percent of these funds must be divided in the following manner. The commissioner may expend annually up to 13% of the funds available under this paragraph for administrative and inspection services provided under this chapter and the remaining funds must be distributed among all fair licensees that were licensed during the previous year. These funds must be distributed to licensees according to

the proportions established by section 86, subsection 5 and may be used at the licensee's discretion. To receive distribution under this paragraph, a licensee holding pari-mutuel racing in the previous year must have been in compliance with section 89. [2013, c. 368, Pt. RR, §1 (AMD).]

[2013, c. 368, Pt. RR, §1 (AMD) .]

SECTION HISTORY

2005, c. 563, §3 (NEW). 2007, c. 539, Pt. G, §1 (AMD). 2007, c. 539, Pt. G, §15 (AFF). 2013, c. 368, Pt. RR, §1 (AMD).

§92. CONSTABLES

The officers of an agricultural society may appoint persons to act as constables at a licensed fair sponsored by that society for the preservation of the public peace and the enforcement of the regulations of the society. An appointment made under this section is valid only within the town where the fair is held and only for the period from noon of the day preceding the commencement of the fair until noon of the day after the termination of the fair. A constable appointed under this section has the powers and duties of a constable under Title 30-A, section 2673. [2005, c. 563, §3 (NEW).]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§93. PROPERTY MANAGEMENT

An agricultural society may acquire and hold property, real and personal. The annual income from this property must be used for the purposes stated in the society's charter. The treasurer for a society may receive conveyances or leases of property for the society, and hold, sell, mortgage or pledge the property. A treasurer using this authority to manage property shall give bonds to the trustees of the society for safekeeping and the faithful discharge of the treasurer's duties. [2005, c. 563, §3 (NEW).]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§94. ENTRY FEES; LIEN ON ANIMALS OR ARTICLES

1. Payment of entry fee. A person who enters an animal or article in a competition for premiums offered by a licensee must pay the entry fee in accordance with the advertised rules and regulations of the licensee, as long as the rules and regulations are not in conflict with the laws of the State or rules adopted in accordance with the laws of the State.

[2005, c. 563, §3 (NEW) .]

2. Lien for failure to pay. When an entry fee is not paid as required under subsection 1, a lien is created upon an animal or article to secure payment with costs. The lien may be enforced by a civil action against the person owning the animal or article, or the person entering the animal or article in the competition. Alternatively, the lien may be enforced in the same manner as liens on goods in possession.

[2005, c. 563, §3 (NEW) .]

3. Exception to lien. A lien under subsection 2 does not affect the ownership of an animal or article when a person who was not responsible for the entry fee and had no notice of the lien purchases the animal or article.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§95. RESTRICTION ON SALE OF GOODS AND REFRESHMENTS; LEASE OF LAND

1. Sale of goods and exhibitions restricted. A person who sells refreshments or other merchandise, or exhibits a show or play, unless in that person's own dwelling or usual place of business, within a quarter of a mile of the fairgrounds during the time a licensed fair is conducted is subject to a forfeit of not more than \$100 to the licensee.

[2005, c. 563, §3 (NEW) .]

2. Lease restricted. A person who leases any land or building adjoining or overlooking the fairgrounds to spectators of an exhibition on the fairgrounds during the time of the exhibition, without the written consent of the licensee, is subject to a forfeit of not more than \$100 to the licensee.

[2005, c. 563, §3 (NEW) .]

3. Recovery on complaint. A forfeiture under this section may be recovered on complaint of the licensee.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§96. USE OF PROHIBITED SUBSTANCE; ANIMALS ENTERED IN EVENTS

1. Prohibition on administration of prohibited substance. A person may not feed, inject, insert or otherwise administer or attempt to administer or instruct, aid or conspire with another person to administer or employ anyone who administers or attempts to administer a prohibited substance to an animal.

[2005, c. 563, §3 (NEW) .]

2. Prohibited use or exhibition of drugged animal. A person may not enter or use in an event an animal that has been administered a prohibited substance. The commissioner may require that an animal be tested for the presence of a prohibited substance before, during or after an event.

[2005, c. 563, §3 (NEW) .]

3. Animals subject to examination; scope; request for test. An animal entered in an event is subject to examination under the direction of a licensed veterinarian or an agent of the licensed veterinarian. The licensed veterinarian, with the approval of the commissioner, may appoint technicians and agents to perform duties under this section that are not prohibited by other provisions of law. The examination may include physical, saliva, urine or blood tests or other tests or procedures that the licensed veterinarian considers necessary to carry out the purposes of this section. The licensed veterinarian may examine an animal entered

in an event if that animal is on the grounds of the event. The licensed veterinarian also may examine an animal withdrawn by the owner or trainer of the animal within 24 hours prior to an event for which the animal had been entered.

[2005, c. 563, §3 (NEW) .]

4. Refusal to submit animal for examination. An owner or trainer may not refuse to secure or restrain an animal for examination under this section by a licensed veterinarian or a technician or agent of the licensed veterinarian and may not interfere with the restraining or securing of an animal for that examination.

[2005, c. 563, §3 (NEW) .]

5. Presence of prohibited substance; prima facie evidence. If the chemical analysis of a test performed under subsection 3 indicates the presence of a prohibited substance, it is prima facie evidence that the substance has been administered to the animal. For purposes of this section, each administration of a prohibited substance to an animal and each occasion on which a prohibited substance was administered in violation of subsection 1 constitutes a separate violation.

[2005, c. 563, §3 (NEW) .]

6. Authority of commissioner to make rules. The commissioner may adopt rules relating to the administration of tests, the care and custody of test samples and all other matters necessary to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 563, §3 (NEW) .]

7. Responsibility of owner and trainer for condition of animal; substitute trainer. In the absence of substantial evidence to the contrary, the owner and trainer of an animal are responsible for the condition of the animal, including the presence of a prohibited substance, and are charged with knowledge of all the provisions contained in this section and the regulations adopted pursuant to this section. If a trainer is prevented from performing the trainer's duties, including responsibility for an animal under this subsection, by illness or other cause, or is absent from the event where an animal under the trainer's care is entered and stabled, the trainer immediately shall notify the secretary or general manager of the event. At the time of notification, the trainer shall specify a substitute trainer and the substitute trainer shall place the substitute trainer's name on the entry blank. The substitute trainer has the same responsibilities as the trainer concerning the condition of an animal in that trainer's care.

[2005, c. 563, §3 (NEW) .]

8. Administrative hearing; suspension. In lieu of a civil action under subsection 9, the commissioner may institute an administrative proceeding on any alleged violation of this section. If the commissioner institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter 4. Upon giving notice to a person who is alleged to be in violation of this section, the commissioner shall immediately prohibit that person from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision following the hearing is received, whichever occurs first, except that the prohibition period is extended by any delays of the hearing requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds the person has committed the violation, the commissioner shall prohibit that person from competing in any event within the State for a period of up to 2 years and shall also exclude the animal from competing in any event within the State for a period of up to one year. The commissioner may also, in an adjudicatory proceeding, in lieu of a civil action under subsection 9, impose an administrative penalty not to exceed \$1,000 for a violation of this section.

The commissioner may establish, by rule, a schedule of administrative penalties for violations of this section that includes fines and prohibitions on competing. The schedule must be based on the severity of the violation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 73, §1 (AMD) .]

9. Civil violations. A person who violates subsection 1, 2 or 4 commits a civil violation for which the following may be adjudged:

A. For the first violation, a fine of not less than \$100 nor more than \$500; or [2005, c. 563, §3 (NEW) .]

B. For a 2nd or subsequent violation, a fine of not less than \$500 nor more than \$1,000. [2005, c. 563, §3 (NEW) .]

Fines adjudged under this subsection must be deposited in the General Fund.

[2005, c. 563, §3 (NEW) .]

10. Suspension. When a violation is adjudicated under subsection 9, the commissioner shall immediately suspend the person adjudicated to have committed the violation from participating in events for a period of 2 years and shall also exclude the animal involved from competing in any event for a period of one year. An action by the commissioner based upon an adjudication under this section is automatic, and there is no right to a hearing before the commissioner on the suspension. A person who participated in an event during any period of suspension or prohibition ordered by the commissioner under this subsection or subsection 8 and the owner and trainer of any animal that competes during a period of suspension or prohibition commit an additional violation of this section.

[2005, c. 563, §3 (NEW) .]

11. Forfeiture. The owner of an animal found to have been administered a prohibited substance in violation of this section forfeits all prize money and any trophies, ribbons and points won at an event by the affected animal. The prize money and trophies, ribbons and points must be redistributed by the secretary or general manager of the event in accordance with its rules or bylaws.

[2005, c. 563, §3 (NEW) .]

12. Exception; therapeutic use of drugs. This section does not prohibit the administration to an animal of a drug the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in an event. An animal in an event that receives a medication that contains a prohibited substance is not eligible for the event, unless the following requirements have been met and the information requested is submitted as a statement in writing to the secretary or general manager of the event.

A. The medication must be therapeutic and necessary for treatment of an illness or injury. [2005, c. 563, §3 (NEW) .]

B. The animal must be withdrawn from the event for a period of at least 24 hours after medication has been administered. [2005, c. 563, §3 (NEW) .]

C. Only a licensed veterinarian or a trainer acting under the direction of a licensed veterinarian may administer medication. The trainer may administer medication under the direction of a licensed veterinarian if the licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal, has sufficient knowledge of the animal to make a general or preliminary diagnosis of the animal and is readily available to care for the animal in the event of an adverse reaction to medication or the failure of a trainer to adhere to a therapy regimen. [2005, c. 563, §3 (NEW) .]

D. The amount, strength and mode of administration of medication must be identified. [2005, c. 563, §3 (NEW) .]

E. The statement must include the date and time of the administration of medication. [2005, c. 563, §3 (NEW) .]

F. The animal must be identified by name, age, sex, color and entry number. [2005, c. 563, §3 (NEW) .]

G. The statement must contain the diagnosis and reason for administering the medication. [2005, c. 563, §3 (NEW) .]

H. The statement must be signed by the person administering the medication. [2005, c. 563, §3 (NEW) .]

I. The statement must be filed with the secretary or general manager of the event within one hour after the administration of medication or one hour after the secretary or general manager of the event returns to duty, if the administration is at a time other than during event hours. [2005, c. 563, §3 (NEW) .]

J. The statement must be signed by the secretary or general manager of the event and the time of receipt of the statement must be recorded on the statement by the secretary or general manager. [2005, c. 563, §3 (NEW) .]

If the chemical analysis of a sample taken pursuant to subsection 3 from the animal treated under this subsection indicates the presence of a prohibited substance and all the requirements of this subsection have been met, the information contained in the statement and any other relevant evidence must be considered at a hearing provided under subsection 8 in determining whether there has been a violation of any provision of this section.

[2005, c. 563, §3 (NEW) .]

13. Inapplicability to horse racing. This section does not affect laws governing horse racing or affect horse sales or horse auction sales when those sales are solely for the sale of racehorses or breeding stock that are used in the production of racehorses and when those sales are held or conducted on the premises of a racing association under the jurisdiction of, and with the authorization and approval of, the State Harness Racing Commission.

As used in this subsection, "racehorse" means a live horse, including a stallion, mare, gelding, ridgeling, colt or filly, that is eligible to participate in a horse racing contest in this State where pari-mutuel racing is permitted under the rules adopted by the State Harness Racing Commission. This subsection does not exempt racehorses participating in an event covered by this chapter.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW). 2011, c. 73, §1 (AMD).

§97. PULLING EVENTS BETWEEN ANIMALS

1. Permit required. A person or entity may not sponsor a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner issued in accordance with this section and rules adopted pursuant to this section.

[2005, c. 563, §3 (NEW) .]

2. Application. A person or entity shall make an application for a permit in writing to the commissioner at least 10 days prior to the date on which a pulling event is intended to take place. The applicant shall provide the name of the person or entity conducting the event, the date and place the event is to be held and

the names of the pull superintendent and superintendent assistants appointed to officiate at the event. One application and one permit may include one or more separate events when specified. Permits granted under this section are not transferable.

[2005, c. 563, §3 (NEW) .]

3. Fees. The commissioner shall charge a permit fee of \$40 per pull day for an event sponsored by a person or entity receiving a stipend under section 86. The commissioner shall charge a seasonal permit fee of \$75 to a person or entity that does not receive a stipend under section 86. The seasonal permit covers all pulls conducted by that entity for the year in which the permit is issued. All revenue derived from the permit fees must be deposited in a nonlapsing dedicated account.

[2005, c. 563, §3 (NEW) .]

4. Statutory rules. A permit may not be issued under this section unless the person or entity conducting the event has adopted the following rules governing the conduct of each pulling event.

A. All teamsters who are to compete in contests must have their teams ready at the published starting time. All classes must be closed after the positions are drawn. Classes must start as nearly as possible to the published time. [2005, c. 563, §3 (NEW) .]

B. Check weighing must be allowed prior to the official weigh-in. All weighing must be done in the forenoon if possible. Teams must have on halters. Horses and ponies must have on shoes. [2005, c. 563, §3 (NEW) .]

C. Measuring must be in a straight line to the nearest point on the drag. Line-to-line measuring is allowed. The front of the drag must touch the line before turning. To get the full-line measure, the drag must be turned more than 1/2 way or the back of the drag must be over the line. [2005, c. 563, §3 (NEW) .]

D. Teams must stay hooked to the drag at all times. Unhitching and rehitching are not allowed. [2005, c. 563, §3 (NEW) .]

E. An actual separation, breaking or bending of equipment constitutes a breakdown. A team breaking down may take the distance pulled or return to the last position and pull over. Only one breakdown is allowed. [2005, c. 563, §3 (NEW) .]

F. Time limits are a maximum of 5 minutes. Time starts when the drag is moved. The time limit to hook on in distance pulls is 3 minutes. [2005, c. 563, §3 (NEW) .]

G. On horses, the very light use of the reins on the hindquarters only is allowed and over and under is not allowed. Whips, brads or goads are not allowed. Reins may not be doubled up. Electrical or electronic devices are not allowed. Open bridles are not allowed. Ponies may not be struck except in a sweepstakes, when they may be struck with a cap or bare open hand. [2005, c. 563, §3 (NEW) .]

H. On oxen, the use of the goad must be very light. The goad may not have a brad in it, only a plain yoke and chain or pole that may be pulled, except that a rope may be allowed in children's classes as provided in rules adopted pursuant to subsection 5. All chains must be covered to the hook. Plastic goads are not allowed. The goad stick may not be over 4 feet long unless approved by the pull superintendent and may not exceed 1/2 inch in diameter on the small end. The goad stick may be taped but not weighted. The stick may be used lightly on the face to control the oxen but not around the eyes. [2005, c. 563, §3 (NEW) .]

I. Any number of helpers is allowed to help hitch. After hitch-on, there may be no more than 2 helpers. The helpers shall stay behind the drag unless needed to help the teamster. The helpers may not have a stick. This paragraph applies to distance pulls only. [2005, c. 563, §3 (NEW) .]

J. All participants must be properly dressed. Proper language must be used at all times. Any participant under the influence of alcohol or other intoxicating substances must be disqualified from the contest. Tests may be made to determine intoxication. The drinking of intoxicating beverages by participants in and around the ring is prohibited. [2005, c. 563, §3 (NEW).]

K. The person or entity sponsoring the event decides the splitting of teams. [2005, c. 563, §3 (NEW).]

L. Heading of horses or oxen is not allowed. One inch pulled constitutes a hitch. Stepping over the rail counts as a hitch and 5 minutes are allowed for hitching. Three attempts may be made within that period. Time taken out to position the drag for the next pull may not be counted. Teamsters may not be changed after the first load is pulled. A team deliberately driven over the rail is disqualified from the contest. In case of a tie on the longest distance, the 2nd-longest distances already pulled will take first place. Persons acting as eveners shall remain quiet after hitching on. This paragraph does not apply to distance pulls. [2005, c. 563, §3 (NEW).]

M. There may not be heading of horses after a pull starts unless there is a mix-up, snarl or breakdown. [2005, c. 563, §3 (NEW).]

N. A substantial barrier must be maintained at the end of the ring toward which the pull is proceeding to prevent or substantially impede runaways. A teamster losing control of the team is disqualified immediately. [2005, c. 563, §3 (NEW).]

O. There is 100 pounds' tolerance on draft steers and oxen on and after Labor Day weekend. [2005, c. 563, §3 (NEW).]

P. An animal that is thin or dehydrated, shows open sores or is lame is disqualified. [2005, c. 563, §3 (NEW).]

Q. Before a team is allowed to pull, the owner shall provide a certificate of liability insurance in the amount of \$300,000. [2005, c. 563, §3 (NEW).]

[2005, c. 563, §3 (NEW).]

5. Rules. The commissioner may, with the advice of the Pull Events Commission, adopt rules necessary to carry out the purposes of this section and sections 98 and 99. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 563, §3 (NEW).]

SECTION HISTORY

2005, c. 563, §3 (NEW).

§98. PULL EVENTS COMMISSION

The Pull Events Commission, as authorized by Title 5, section 12004-G, subsection 3-A, is established in accordance with this section. [2005, c. 563, §3 (NEW).]

1. Membership. The Pull Events Commission consists of 10 members:

A. Two members appointed by a statewide association representing owners of draft horses and oxen who participate in pulling events; [2005, c. 563, §3 (NEW).]

B. One member appointed by a statewide association representing owners of oxen who participate in pulling events; [2011, c. 487, §1 (AMD).]

C. One member appointed by a statewide farmers association representing owners of draft horses who participate in pulling events; [2011, c. 487, §1 (AMD).]

C-1. One member appointed by a statewide farmers association representing owners of draft oxen who participate in pulling events; [2011, c. 487, §1 (NEW).]

D. One fair superintendent appointed by the commissioner; [2011, c. 487, §1 (AMD).]

D-1. One member appointed by a state association of agricultural fairs; [2011, c. 487, §1 (NEW).]

E. One representative appointed by state humane organizations; [2005, c. 563, §3 (NEW).]

F. One member, appointed by the commissioner, representing the general public; and [2011, c. 487, §1 (AMD).]

G. [2011, c. 487, §1 (RP).]

H. One member appointed by the Animal Welfare Advisory Council. [2005, c. 563, §3 (NEW).]

[2011, c. 487, §1 (AMD).]

2. Chair; meetings; secretary; quorum. The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. The commissioner shall designate a person to serve as secretary to the Pull Events Commission. A quorum of the commission for the transaction of business is 6 members. An action may not be taken by the commission without approval of a majority of the members present.

[2011, c. 487, §2 (AMD).]

3. Terms; vacancies. Appointments to the Pull Events Commission must be for terms of 3 years. The appointing authority fills a vacancy for a full 3-year term. The appointing authority may remove a commission member for cause, which includes poor attendance. The chair shall make recommendations to the appointing authority concerning a removal.

[2011, c. 487, §3 (AMD).]

4. Rulemaking. The Pull Events Commission shall adopt rules establishing the qualifications and procedure for the certification of pull superintendents and assistant pull superintendents and guidelines for dealing with violations of section 95 and the rules adopted under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 563, §3 (NEW).]

5. Other duties. The Pull Events Commission shall:

A. Periodically review the statutory rules for pulls as contained in section 97, subsection 4 and recommend to the Legislature changes as necessary; [2005, c. 563, §3 (NEW).]

B. Give advice and recommendations to the commissioner on request or as the commission considers necessary; and [2005, c. 563, §3 (NEW).]

C. Coordinate, develop and conduct pull superintendent training seminars. [2005, c. 563, §3 (NEW).]

[2005, c. 563, §3 (NEW).]

SECTION HISTORY

2005, c. 563, §3 (NEW). 2011, c. 73, §2 (AMD). 2011, c. 487, §§1-3 (AMD).

§99. PULL SUPERINTENDENT

1. Appointment. Each person or entity conducting a pulling event shall appoint a pull superintendent who is certified by the commissioner as qualified in accordance with rules adopted under section 98. The name of the pull superintendent must be submitted in conjunction with the application for a permit to conduct each event. Only a person listed on the application as a pull superintendent or assistant pull superintendent may officiate.

[2005, c. 563, §3 (NEW) .]

2. Restrictions on officiating. A pull superintendent may not officiate as pull superintendent for a class in a pulling event in which that pull superintendent is participating as a competitor. An assistant pull superintendent may not officiate as pull superintendent for a class in a pulling event in which that assistant pull superintendent is participating as a competitor.

[2005, c. 563, §3 (NEW) .]

3. Enforcement responsibilities. A pull superintendent shall enforce the laws and rules governing pulling events and shall report participants who are disqualified, violations of the law and other matters, as appropriate, to the Pull Events Commission.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW) .

§100. ENFORCEMENT ACTIONS BY COMMISSION

Upon receipt of a report pursuant to section 99, subsection 3, the Pull Events Commission shall send a copy of the report to the sponsor whose name appears on the application for the pulling event and to the person whose conduct has been reported to the commission. [2005, c. 563, §3 (NEW) .]

1. Violation by teamster. Upon receipt of a written report alleging that a teamster has violated the laws or rules governing pulling events, the Pull Events Commission may after a hearing disqualify a teamster from participation in pulling events.

[2005, c. 563, §3 (NEW) .]

2. Violation by pull superintendent or assistant pull superintendent. Upon receipt of a written report alleging that a pull superintendent or assistant pull superintendent has violated the laws or rules governing pulling events or has failed to take appropriate action to enforce the laws and rules governing pulling events, the Pull Events Commission may after a hearing suspend or revoke that person's certification to act as a pull superintendent.

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW) .

§101. VIOLATIONS RELATING TO PULLING EVENTS

1. Conducting pulling event without permit. A person that conducts, causes to be conducted or sponsors a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2005, c. 563, §3 (NEW) .]

2. Prohibition on participating in pulling events. A person who has been convicted of a violation of Title 17, section 1031 or has been adjudicated to have committed a civil violation of section 4011 within the previous 5 years may not participate as an animal owner or handler or in any other capacity, directly or indirectly, in a pulling event. A person who participates in a pulling event in violation of this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2005, c. 563, §3 (NEW) .]

3. Permit revocation. The commissioner may, in accordance with Title 5, chapter 375, revoke or refuse to renew a permit to hold a pulling event:

A. If after receiving notice from the department the sponsor of a pulling event allows a person to participate as an owner or handler or in any other capacity, directly or indirectly, in a pulling event within 5 years of that person's being convicted of a violation of Title 17, section 1031 or being adjudicated of a civil violation of section 4011; or [2005, c. 563, §3 (NEW) .]

B. When the commissioner has received written notification from the Pull Events Commission of violations of laws or rules at a pulling event conducted under a permit held by that sponsor. [2005, c. 563, §3 (NEW) .]

[2005, c. 563, §3 (NEW) .]

SECTION HISTORY

2005, c. 563, §3 (NEW) .

§102. RECIPROCAL DISCIPLINARY ACTION

The department shall obtain current listings from other jurisdictions of persons who have been suspended or barred from pulling competitions. The department shall refuse to allow any person who has been suspended or barred from pulling competitions in another jurisdiction to compete in any pulling competition until the department receives notification from the jurisdiction that has suspended or barred the person from pulling competitions that the person is again eligible to compete in pulling competitions in that jurisdiction. [2013, c. 155, §1 (NEW) .]

SECTION HISTORY

2013, c. 155, §1 (NEW) .

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